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CONTENTION #1-A

~~END OF ROUND 7A~~ 6TH AND 14TH AMENDMENT DUE PROCESS AND EQUAL
PROTECTION CLAUSES VIOLATION FOR THE COURTS FAILURE TO
INQUIRE INTO THE APPOINTMENT OF CONFLICTING COUNSEL.

STATEMENT OF FACTS - ON OR ABOUT 11-09-04, AFTER
PETITIONER WAS APPOINTED HIS 3RD COURT APPOINTED COUNSEL
MR. NEWTON. (IT SHOULD BE NOTED THAT DEFENDANT'S FIRST
APPOINTED COUNSEL WAS CONFLICTING, A MR. ERICSEN OF
HOME PETITIONER HAD NEVER HAD INITIAL PERSONAL CONSULTA-
TION WITH), UPON APPOINTMENT OF MR. NEWTON WITH A
DISQUALIFYING CONFLICT, PETITIONER/DEFENDANT MADE A
"THRESHOLD MARSDEN MOTION THAT WAS DENIED PREJUD-
ICALLY BY THE HON. JUDGE FRECKEL WITHOUT MAKING THE
PROPER INQUIRY, THUS ABUSING HIS DISCRETION, AS MR.
NEWTON REPRESENTED PETITIONER'S ALLEGED CO DEFENDANT
MR. MCKELVEY AT HIS PRELIMINARY HEARING. MR. NEWTON HAD
DIVERGED CONFIDENTIALITIES ABOUT MR. MCKELVEY TO
PETITIONER. PETITIONER'S ~~CONVICTION AND SENTENCE~~

~~SHOULD BE REVERSE WITH A PER SE REVERSAL/~~
~~AUTOMATIC REVERSAL AS IN HOLLOWAY V. ARKANSAS,~~
~~435 U.S. 475, 49-491, 98 S. CT. 1173, 1181 1182, 55 L. ED. 2D~~
~~426 (1978).~~ STATEMENT OF FACTS

SEE EXHIBITE, PAGE 19, RTEXCERPT 0032, LINES 1-20, 23
-26, SEE ALSO EXHIBITE, PAGE 20, RTEXCERPT 0033, LINES, 1, 2,
3, 4, 6, 11-21, PETITIONER DENIES OMITTED PORTIONS, SEE EXHIBITE,
PAGE 21, RTEXCERPT 93, LINES, 2-6, 8-14, 17-24, 27, 28, SEE ALSO
EXHIBITE. PAGE 22, RTEXCERPT 86, LINES 1-22, 25, PETITIONER
DENIES ALL OMITTED PORTIONS, SEE EXHIBIT A, PAGE 79, RTEXCERPT 259, LINES 21, 22,
27, 28. SEE ALSO EXHIBIT "A", PAGE 72, RTEXCERPT 260, LINES, 1-8, 13, 16, 17, 18, 19. —

1 THE COURT: HOW MANY ATTORNEYS HAVE YOU ALREADY HAD, MR. BURTON? THE DEFENDANT:
2 WELL SIR, VIC ERIKSEN WAS THE FIRST AND HE HAD A CONFLICT BECAUSE HE
3 (ALLEGEDLY) REPRESENTED MR THOMAS. I SAT IN JAIL FOR TWO WEEKS AND HAD NOT
4 MET WITH AN ATTORNEY. THE NEXT ATTORNEY WAS MR. PLUMMER, -- BECAUSE
5 HE DID A MOTION, FRUIT OF THE POISONOUS TREE -- BEGIN WITH A MIRANDA
6 VIOLATION -- A FOURTH AMENDMENT VIOLATION. -- "ALL ITEMS SEIZED"
7 WHICH DEEMED THE MOTION TO BE AN -- "I WAS THEN ASSIGNED
8 AN ATTORNEY NEWTON, -- (ALLEGED) CODEFENDANT AND HE REPRESENTED
9 HIM THE DAY OF MY PRELIMINARY HEARING -- CONFLICT OF INTEREST
10 AND THEN I WAS ASSIGNED MR. ADAIR. (MARS DEN 6-01-05).